1908-030 Chancery Causes: Joseph M. Steele vs. George W. Duff &c
Lee Co.

Morison, Young, Sage, Freeman, Carber, Fugate, Bray.

CA-Estate Dispute
T-Property

J. N. Steele, Complainant,

vs. In Chancery.

Bradford Young, et al. Defendants

To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County.

The Complainant, your orator , J. N. Steele, a citizen of Lee County, respectfully represents unto your honor.

First, That Thomas Duff was in his lifetime seized and possessed of certain real estate lying in Lee County, Virginia, near the head waters of Wallens Creek, and while so seized and possessed of said land, the said Thomas Duff, on or about the _____ day of _____, 1884 , died intestate, leaving his wife Lousia Duff surviving him as his widow and Marguerite D. Steele, Chas. C. Duff, Nancy Fugate, George W. Duff, Mattie Morison and Jeff L. Duff his only children and heirs at law;

Second; and that sometime after the death of the said Thomas Duff, his heirs assigned unto the said Lousia Duff a certain tract or parcel of land, lying and being in the County of Lee and State of Virginia, on the head waters of Wallens Creek, and containing about _____ acres by meets and bonds as shown in exhibit "A" filed herewith, and as a part of this bill as and for her dower in the real estate of her said husband.

Third; That by certain proceedings had in the Circuit Court for Lee County, Virginia, in a certain cause the style of which is not known to your orator, the share of the said Chas. C. Duff in the reversion of said tract of land assigned as aforesaid for life to the said Lousia Duff, was sold and conveyed to Micheal Robinett., by H. J. Morgan, Comr.;

Fourth; that also in a certain chancery cause the style of which in not known to your orator, the share of the said Jeff L. Duff was like wise sold and conveyed by said Court's Commissioner to the said Lousia Duff.

Fifth; That Nancy Fugate, and her husband by a dead dated on the _____ day of _____, 189___, sold and conveyed her undivided interest in said dower tract of land to the said Micheal Robinett; a certified copy of whose deed is herewith filed marked exhibit "B" and prayed to be taken as a part of this bill.

Sixth; That said Mattie Morison on ar about the _____ day of _____, 1900, died intestate still owning her undivided interest, subject to the life estate thereon of her mother, the said Lousia Duff leaving surviving her her husband, Walker Morrison and three children as her sole heirs ,to-wit, Lizzie Bray, Thomas S. Morison and Marguerite L. Morison;

Seventh; that the said Lizzie Bray and her husband A. J. Bray, Thomas S. Morison and his wife Annie Morison and Marguerite L. Morison by a deed dated on the 26th day of November, 1907, conveyed their undivided interest in said dower land described in said exhibit "A" to your orator. Which deed is herewith filed and marked exhibit "C" as a part of this bill.

Eight; that the said Micheal Robinett and his wife Sarah Robinett, by deed dated the 16th day of June, 1903, granted and conveyed unto your orator their two undivided interests in said tract of land, mentioned in said exhibit "A" which as aforesaid was purchased and conveyed to him by Nancy Fugate and husband and H. J. Morgan , Commissioner who had therefore conveyed to him the undivided interest, in said land of said Chas. C. Duff. Whose deed is herewith filed as a part of this bill, marked exhibit "D".

Ninth;that by deed dated on the _____ day of June, 1908, the said Marguerite Steele, sold , granted and conveyed her undivided interest in the said tract of land, mentioned in said exhibit "A" to your orator.

Tenth; that the said George W. Duff and his wife Victoria Duff, by deed dated the _____day of _____, 189___, sold, conveyed and granted his undivided interest in said tract of land mentioned in said exhibit "A" to Robert Young.

Eleventh; that the said Robert Young on or about the _____day of _____, 1900, departed this life intestate, seized and possessed and owning said undivided interest in said tract of land , mentioned in said exhibit "A" and leaving surviving him, as his heirs at law eight children to-wit, Wellington Young, Sr., Ozro Young, Bradford Young, Fay Sage, Rozzie Freeman, Victoria Duff, Marcellus Duff and Alonzo Duff, that after the death of the said Robert Young, t e said Marcellus Young died intestate leaving surviving him as his heirs at law Ossie Garber, Carrie Lee Young, Wellington Young, Jr., and Forest Young; and that his son Alonzo Young after his death also, died intestate, leaving surviving him as his only heirs at law two children, to-wit, Lizzie Young and Eva Young.

Twelfth; that ~~aforesaid~~ the said Lousia Duff on or about the 5th day of June, 1908, departed this life intestate, leaving surviving her as her heirs at law Marguerite D. Steele, Chas. C. Duff, Nancy Fugate and George W. Duff, and the said three children of her said daughter Mattie Morison.

The premises aforesaid considered, your orator is advised that he is entitled to, by reason of his said purchases and conveyances to him to four-sixth plus one-half of one-fifth of one-sixth, of said land mentioned and described in said exhibit "A"; that is seven-tenths (7/10) of the whole,

that Lizzie Bray, Thomas S. Morison and Marguerite L. Morison, children of the said Mattie Morison are entitled joimtly to one-fifth of one-sixth of said land , mentioned in said exhibit "A"; that Chas C. Duff is entitled to one-fifth of one-sixth of said land mentioned in said exhibit "A"; that Nancy Fugate is entitled to one-fifth of one-sixth of said land mentioned in said exhibit "A"; that George W. Duff is entitled to one-fifth of one-sixth of said land mentioned in said exhibit "A"; and that the said heirs of Robert Young are also jointly entitled to one-sixth undivided interest in said land mentioned in said exhinit "A".

Your orator is advised and alleges that his said interest in said tract of land, mentioned in said exhibit "A" as susseptable of being partitioned from the residue of the land aforesaid and his seven-tenths assigned to him in kind. And he therefore prays that Commissioners be duly appointed to go upon said land for that purpose. But as the other defendants in this cause, on account of their interest in said land being so small he does not believe that it can be partitioned in kind without materially affecting their interests. It is his opinion that the interests of the other defendants would be promoted by a sale thereof, because their interest in the aggregate is only three-tenths of said land and it would have to be cut up in many small shares. By a sale of said three-tenths interest, the money therefore could be divided and the interests of those entitled thereto duly protected.

Your orator is advised that since Mattie Morison died before her mother, the said Lousia Duff, and she never having had actual possession of her interest in said land during her lifetime, that her said husband Walker Morison is not entitled to any curtesy rights in her interest in said land.

Your orator is advised that he has rights in the premises which, however, are only cognizable in a Court of equity; his pray therefore is, that your honor take jurisdiction of this cause of ~~xxxxxxxxxxx xxx~~ complaint that Walter Morison, Chas C. Duff, Nancy Fugate, George W. Duff, Victoria Duff, Lizzie Bray, Thomas S. Morison, Marguerite L. Morison, Wellington Young, Sr., Ozro Young, Bradford Young, Fay Sage, Rozzie Freeman, Ossie Garber, Carrie Lee Young, Wellington Young, Jr., Forest Young, Lizzie Young and Eva Young be made party defendants to this bill of complaint. That they each be required to answer the same, but they need not do so on oath as that is waived; that a guardian ad litem be appointed for Wellington Young, Jr., Forest Young, Carrie Lee Young, Lizzie Young and Eva Young, who are infants under the age of twenty-one years, to defend their rights and interest in this cause; that an order of publication be duly made, posted and published as the law requires for non-residents for Wellington Young, Sr., Chas C. Duff, George W. Duff, Victoria Duff, Lizzie Young, Eva Young, Ossie Garber, Carrie Lee Young, Wellington Young, Jr., Rorest Young and Rozzie Freeman who are each non-residents of this State;

that on the final hearing of this cause your orator be awarded seven- tenths (7/10) interest in said tract of land mentioned in said exhibit "A" and the same be duly allotted and assigned to him by proper Commissioner, and by proper meetes and bounds. And that the other three-tenths (3/10) interest in said tract of land, if the same is found to be incapable of partition among those entitled, ~~the same~~ be duly sold and the proceeds of sale therefor divided among said defendants according to their respective interests. And that all other, further general relief be awarded your ~~xxxxx~~ complainant, that the

nature of his cause and equity may require. And he will ever ~~pay~~ pray, etc.

P.Q.

Dismiss at Rules.

Joseph N. Steele,

vs } Bill

Geo. H. Duff et al

Filed June 23, 1908-

1908, 1st Aug. Rules
Dismissed by
order of atty
for Plff.

E.W. PENNINGTON. ROBT. L. PENNINGTON.
Pennington Bros.
ATTORNEYS AT LAW,
JONESVILLE AND PENNINGTON GAP, VA.

Pennington Gap, Va., June, 22, 1908.

Mr. H. C. T. Ewing,

Jonesville, Va.,

Dear Sir:-

Please make the following memmo on your memorandum book.

" Joseph N. Steele, Complainant,

Vs.

Walker Morison, Wellington Young, Sr., Ozro Young, Bradford T. Young, Fay Sage, Rozzie Freeman, Ossie Garber, Victoria Duff, George W. Duff, Lizzie Young, Eva Young, Carrie Lee Young, Wellington Young, Jr., Forest Young, Chas. C. Duff, Nancy Fugate, Lizzie Bray, Thomas S. Morison and Marguerite L. Morison, Defendants.

Make and publish order of publication for George W. Duff, Victoria Duff, Chas. C. Duff, Lizzie Young, Eva Young, Ossie Garber, Carrie Lee Young, Wellington Young, Jr., Forest Young, Rozzie Freeman and Wellington Young, Sr., non-resident defendants. Also appoint C. E. Pennington guardian ad litem for Carrie Lee Young, Wellington Young, Jr. Forest Young, Lizzie Young and Eva Young, infants under the age of twenty-one years, subpoena in chancery, to the first August Rules, 1908."

I also enclose you herewith the affidavit on which to make this order of publication, together with the order of publication for you to sign. And I also enclose you Mr. Steele's check for $1.50, to pay the tax on this suit.

E.W. PENNINGTON. ROBT. L. PENNINGTON.
Pennington Bros.
ATTORNEYS AT LAW,
JONESVILLE AND PENNINGTON GAP, VA.

#2.

I herewith also send you the Bill to be filed in this case.

In issueing the process in this case for Walker Morison direct it to the Sheriff of Wise County; and for the process in this case for Thomas S. Morison and Marguerite L. Morison address the process in this case for them to the Sargant of the city of Norfolk, Virginia; and for ~~Daisy~~ Lizzie Bray address the process for her to the Sheriff of Scott County. Please send me the processes for these named parties, so that I can send them to the right places for service. Please do this at once.

Yours truly,

E. W. Pennington.

Copy to Shff
Lee County -
Ozro Young
Bradford P. Young
Pay Sage
Nancy Pugate

Virginia, Lee County, to-wit:

This day Joseph N. Steel appeared in person before me, a Notary Public in and for the County and State aforesaid, and made oath that George W. Duff, Victoria Duff, Chas. C. Duff, Lizzie Young, Eva Young, Ossie Garber, Carrie Lee Young, Wellington Young, Jr., Forest Young, Rozzie Freeman and Wellington Young, Sr. against whom he is about to institute a suit in equity in the Circuit Court of said County of Lee, are non-residents of this Common-wealth.

Given under my hand, this the 18th day of June, 1 908.

R. E. L. Chumbley N. P.

Joseph N. Steele

vs } Affidavit

Geo. H. Duffenthal

Filed June 23, 1908.

H. O. Ewing

Clerk.

VIRGINIA;

In the Clerk's Office of the Circuit Court of Lee County, in Vacation, the 23rd day of June, 1908.

Joseph N. Steele, Plaintiff.

VS.

Walker Morison, Wellington Young, Sr., Wellington Young, Jr. Osro Young, Bradford T. Young, Fay Sage, Rozzie Freeman, Ossie Garber, Victoria Duff, George W. Duff, Lizzie Young, Eva Young, Carrie Lee Young, Forest Young, Chas. C. Duff, Nancy Fugate, Lizzie Bray, Thomas S. Morison, Marguerite L. Morison, Defendants.

In Chancery.

The object of the above styled suit is to partition among those entitled, ~~to~~ the land in the bill and proceedings mentioned in this case, said land being the same land which was assigned to Lousia Duff as and for her dower out of the real estate of Thomas Duff, deceased, the said Lousia Duff now being dead, and the reversion in her dower now being subject to partition in the manner mentioned in the bill of said cause.

And it appearing by affidavit filed according to law that George W. Duff, Victoria Duff, Lizzie Young, Eva Young, Ossie Garber, Carrie Lee Young, Wellington Young, Jr., Forest Young, Rozzie Freeman, Chas C. Duff, and Wellington Young, Sr., are not residents of this State; it is therefore ordered that the said George W. Duff, Victoria Duff, Chas. C. Duff, Lizzie Young, Eva Young, Ossie Garber, Carrie Lee Young, Wellington Young, Jr., Forest Young, Rozzie Freeman and Wellington Young Sr., do and each of them appear within fifteen days

after due publication of this order at the Clerk's Office of our Circuit Court for Lee County, and do what is neccessary to protect their interest.

And it is further ordered, that this order be published once a week for four successive weeks in the Jonesville Star, a news paper printed and published in the County of Lee and State of Virginia.

Given under my hand this the 23rd day of June, 1908.

H. C. T. Ewing, Clerk.

PENNINGTON BROS.P.Q.

J. N. Steele

vs. } Order of Publication

Geo. H. Duff et al

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Virginia Lee County, to-wit:

I, W. C. T. Ewing, Clerk of the Circuit Court for the County aforesaid in the State of Virginia, do certify that I posted a true Copy of the within order of publication at the front door of the Court-house of said County on this the 23rd day of June, 1908.

Given under my hand on this the 23rd day of June, 1908.

W. C. T. Ewing,
Clerk.

# The Commonwealth of Virginia,

**To the Sheriff of the County of Lee, Greeting:**

WE COMMAND YOU, That you summon Walker Morison, Willington Young Sr., Ozro Young, Bradford T. Young, Fay Sage, Lozzie Fleenor, Dave Garber, Victoria Duff, George H. Duff, Lizzie Young, Eva Young, Carrie Lee Young, Willington Young Jr. Farah Young, Chas. C. Duff, Nancy Fugate, Lizzie Bray, Thomas S. Morison & Marguerite L. Morison

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on the 1st Monday in Aug. 190 8, to answer a bill in chancery exhibited against them by Joseph N. Steele

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the 23" day of June, 190 8, and 132 year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk

, Clerk

Joseph N. Steele

VS { SUBPŒNA IN CHANCERY

Walker Marison, et al

Pennington Bro. + p. q.

To 1st Aug 1908 Rules

Lee Circuit 1908 Court

Executed in part by noticing Fay Sage Oyro
Young Carrie Lee Young Wellington Young Jr.
Farrest Young Nancy Frugate this Aug 1st 1908
G. W. Sage L.S. These papers did not come in my hands
until July 30th 1908 for lack of time some is not
Executed